

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	2244.05
COMPLAINT INVESTIGATOR:	Joe Bear
DATE OF COMPLAINT:	April 11, 2005
DATE OF REPORT:	May 10, 2005
REQUEST FOR RECONSIDERATION:	no
DATE OF CLOSURE:	June 22, 2005

COMPLAINT ISSUES:

Whether New Albany-Floyd County Consolidated School Corporation violated:

511 IAC 7-27-7(a) by failing to implement the student's individualized education program (IEP) as written, specifically by failing to provide the parent(s) with a report card for the past grading period;

511 IAC 7-25-6(d) by failing to utilize the case conference committee to determine whether and to what extent the student shall be reevaluated for special education; and

511 7-25-6(g)(1) by failing to notify the parent(s) of the school's determination that no additional data are needed to determine whether the student continues to be eligible for special education.

During the course of the investigation, the following additional issues were identified:

511 IAC 7-27-3(a) by failing to ensure that the required case conference committee participants were included in a CCC meeting on January 10, 2005; and

511 IAC 7-27-7(d) by continuing to implement an IEP for a period of more than 12 months.

FINDINGS OF FACT:

1. The Student has been identified as having a learning disability and has been determined eligible for special education and related services.
2. Two Complainants are participating in this complaint. Complainant A is the parent of the Student, but Complainant B is not.
3. The Student's IEP calls for the Student to receive a progress report at the end of every nine-week grading period, as well as annually.
4. The third grading period of the 2004-2005 school year ended on March 11, 2005. On April 12, 2005, the Principal wrote to the Complainants to say that she had just learned that they had not received the Student's report card for the last grading period. The Principal apologized for the delay and sent the report card with the letter.

5. The School acknowledged that the Student's report card had not been provided to the Complainants when it was requested by them because the School was trying to get the Complainants to come for a CCC meeting.
6. The Student's reevaluation was due to be completed by the end of April 2005.
7. On February 17, 2005, the School sent the Complainants a Notice of Intent to Conduct an Educational Reevaluation. The Notice said that someone from the School would contact the Complainants to inform them of their parental rights and to explain the evaluation procedures.
8. A CCC meeting was scheduled for March 17, 2005, to discuss several issues, as well as to start the reevaluation process by reviewing existing data pertaining to the Student and determining whether additional data were necessary. The Complainants did not participate. Complainant B later requested in writing that a CCC meeting be set up via telephone, but the School returned the written request, "stating they wanted to meet in person with" the Complainants. The CCC has not met regarding these issues.
9. The School has not determined whether additional data are needed for the Student's reevaluation.
10. Three individuals were included in a CCC meeting at the School on January 10, 2005, called for the purpose of revising the Student's IEP: the Assistant Principal, a resource teacher, and a classroom teacher. Complainant A did not attend the meeting. Although the School states that Complainant B was present, the Addendum to Case Conference Summary/IEP dated January 10, 2005, does not include the signature of either Complainant as a participant.
11. The Addendum completed on January 10, 2005, calls for referring the Student to School Outreach Services, a program providing psychological and other assistance. The Addendum was sent home for Complainant A to sign, with arrows indicating where his signature was needed. The services were never initiated because Complainant A did not sign the form.
12. The School has not documented an attempt to involve Complainant A in the CCC meeting on January 10, 2005.
13. The IEP developed for the Student on April 7, 2004, continues to be the most current IEP.

CONCLUSIONS:

1. Findings of Fact #2, #3, and #4 indicate that the School failed to provide the parent with a report card following the third grading period. Finding of Fact #5 indicates that the School made the provision of the report card conditional upon the Complainants' participation in a CCC meeting. Therefore, a violation of 511 IAC 7-27-7(a) is found. However, the School has taken corrective action by providing the report card to the parent as of April 12, 2005 (Finding of Fact #4), so no additional corrective action is necessary.
2. Findings of Fact #6, #7, and #8 indicate that the School failed to utilize the CCC to determine whether and to what extent the Student should be reevaluated for special education, so that the reevaluation could be completed by the end of April 2005. Therefore, a violation of 511 IAC 7-25-6(d) is found.
3. Finding of Fact #9 indicates that the School has not made a determination regarding the need for additional data for the reevaluation. The School could not notify the parent of a determination that had not been made. Therefore, a violation of 511 IAC 7-25-6(g)(1) is not found.

4. Finding of Fact #10 indicates that the CCC met on January 10, 2005, for the purpose of revising the IEP without the parent in attendance. Findings of Fact #11 and #12 indicate that the School sent the Addendum home for Complainant A to sign after the CCC meeting was completed, and has not documented an attempt to involve Complainant A in the meeting. Therefore, a violation of 511 IAC 7-27-3(a) is found.
5. Finding of Fact #13 indicates that the School has continued to implement the Student's IEP for more than 12 months. Therefore, a violation of 511 IAC 7-27-7(d) is found.

The Department of Education, Division of Exceptional Learners, requires corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

New Albany-Floyd County Consolidated School Corporation shall:

1. Convene the CCC by June 3, 2005, to determine whether and to what extent the Student should be reevaluated for special education, and to develop a new IEP. If the parent is unable to attend, the parent will be allowed to participate via telephone.

Documentation of compliance (consisting of the CCC report and IEP) shall be submitted to the Division by June 24, 2005.

2. Send a written memorandum to all CCC chairpersons and teachers of record regarding the need for all required members of a CCC to be present each time a CCC meeting is held. The memorandum should state that, if a parent cannot attend a CCC meeting, an attempt should be made to have the parent participate via telephone. For guidance concerning the limited circumstances in which a CCC meeting can be held without the parent in attendance, and the necessity of documenting attempts to arrange a meeting, consult 511 IAC 7-27-3(h).

Documentation of compliance (consisting of the written memorandum and a list of those who received it) shall be submitted to the Division by June 24, 2005.